

Message Text

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ACTION ARA-10

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R 121301Z MAR 75

FM AMEMBASSY SAN SALVADOR

TO SECSTATE WASHDC 7610

INFO AMEMBASSY GUATEMALA

C O N F I D E N T I A L SAN SALVADOR 0988

E.O. 11652: GDS

TAGS: EINV; ETRN; ES

SUBJECT: IRCA

REF: SAN SALVADOR 0678

1. IRCA'S SALVADORAN LAWYER DR. TRIGUEROS CALLED ON THE EMBASSY MARCH 10 TO SHARE A FEBRUARY 7 LETTER TO HIM FROM IRCA'S ABRAHAM WEBER AND TO DISCUSS HIS INTENTION, ON THE BASIS OF WEBER'S INSTRUCTIONS, TO PROTEST THE GOES ACTIONS VIS A VIS IRCA. (WEBER IN LETTER REFERRED TO HIS FEBRUARY 6 DISCUSSIONS AT THE DEPARTMENT AND SAID HE WAS SEEKING SETTLEMENTS IN GUATEMALA AND EL SALVADOR.) CONTRARY TO OUR EXPECTATION, REPORTED IN REFTEL, THAT AMBASSADOR BERTRAND GALINDO WOULD CONVEY TO TRIGUEROS THE LEGAL RECOURSES AVAILABLE TO IRCA, TRI-GUEROS SAID HE HAD HEARD NOTHING FROM THE GOVERNMENT AND HE HAD BEEN UNSUCCESSFUL IN REACHING AMBASSADOR BERTRAND DURING HIS FEBRUARY VISIT HERE IN SAN SALVADOR. IT WAS OUT OF CONCERN

FOR THIS THAT WE COMMUNICATED WITH TRIGUEROS WITH THE INTENTION OF CONVEYING WHAT BERTRAND TOLD THE AMBASSADOR FEBRUARY 13. TRIGUEROS RETURNED TO EL SALVADOR MARCH 10 AFTER SEVERAL WEEKS ABSENCE, WHICH MIGHT EXPLAIN THE DELAYED ACTION ON WEBER'S FEBRUARY 8 LETTER.

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2. EMBOFFS REPEATED TO TRIGUEROS AMBASSADOR BERTRAND'S DESCRIPTION OF THE TWO LEGAL RECOURSES AVAILABLE (SEE REFTEL). TRIGUEROS REACTED A LITTLE INCREDULOUSLY, OBSERVING THAT NEITHER MADE MUCH LEGAL SENSE UNLESS OFFERED IN A NON-TRADITIONAL MANNER. TRIGUEROS GAVE A NEW TWIST TO HIS EARLIER EXPRESSION THAT UNDER CONSTITUTIONAL PROCEDURES (PAR. 3, REFTEL) ONLY A SALVADORAN (PERSON OR ENTITY) MAY SEEK A DETERMINATION OF CONSTITUTIONALITY, SAYING THAT THE GRIEVED/INTERESTED PARTY MUST BE SALVADORAN. THUS, EVEN HE AS LAWYER COULD NOT APPEAL FOR IRCA SINCE THE INTERESTED PARTY WOULD CLEARLY BE IRCA, A FOREIGN ENTITY, NOT HIMSELF, A SALVADORAN. CONCERNING THE SECOND REMEDY, SUIT IN LOWER COURTS FOR INDEMNIZATION, HE SAID THE JUDGE ALWAYS REQUIRES OF THE SUING PARTY A BOND (FIANZA) WHICH HE SETS IN RELATION TO THE INDEMNITY SOUGHT. ALTHOUGH HE SAID HE HAS NO FIGURE FROM WEBER TO USE IN AN INDEMNIZATION SUIT HE GUESSED IT WOULD BE IN THE NEIGHBORHOOD OF \$20 MILLION WHICH WOULD MOST LIKELY BRING A BOND OF ONE MILLION DOLLARS, AN AMOUNT HE BELIEVED WEBER WOULD BE UNWILLING TO MAKE. THUS, ON THE SURFACE, HE VIEWED BOTH PURPORTED REMEDIES AS FICTIONAL.

4. NONETHELESS, TRIGUEROS SEEMED KPS VFOSTAND THAT A GOES CONCERNEDOKS

UMNZSIBLE APPLICATION OF U.S. ANTI-EXCROPRIATION LEGISLATION AND LOSS OF AN INVESTMENT IMAGE, MIGHT BE CREATING UNUSUAL LEGAL OPPORTUNITIES. HE AGREED TO OUR SUGGESTION THAT HE OBTAIN CONFIRMATION OF WHAT WE ATTRIBUTED TO AMBASSADOR BERTRAND FROM THE MINISTRY OF FOREIGN RELATIONS. HE LEFT, SAYING HE WOULD SEEK ON MARCH 11 AN APPOINTMENT WITH FOREIGN MINISTER BORGONOVO ON IRCA, TO BE FOLLOWED WITH APPOINTMENTS WITH MINISTER OF THE PRESIDENCY DR. SILVA AND, ULTIMATELY, PRESIDENT MOLINA. OUR CONCERN, REFLECTED IN PAR. 5 OF REFTEL, THAT TRIGUEROS LACKED REMUNERATIVE INCENTIVE TO PURSUE THE CASE APPEARS ILL-FOUNDED. ALTHOUGH WEBER'S FEBRUARY 7 LETTER SAID NOTHING ABOUT PAYMENT, TRIGUEROS SAID HE WOULD WORK FOR PERCENTAGE OF AWARD, A STATEMENT SOMEWHAT AT ODDS WITH HIS PESSIMISTIC LEGAL OUTLOOK.

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5. A COPY OF WEBER'S FEBRUARY 7 LETTER HAS BEEN POUCHED TO ARA/CEN/ES. TRIGUEROS SAID HE WOULD INFORM US CONCERNING ANY DEVELOPMENTS AND SUCH WILL BE PROMPTLY REPORTED TO THE DEPARTMENT.
CAMPBELL

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NNN

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